



Entered on Docket
December 29, 2009

A handwritten signature in dark ink, appearing to read "Linda B. Riegle".

Hon. Linda B. Riegle
United States Bankruptcy Judge

LEWIS AND ROCA LLP

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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE COMPANY,
USA CAPITAL REALTY ADVISORS, LLC,¹
USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,
USA CAPITAL FIRST TRUST DEED FUND, LLC,²
USA SECURITIES, LLC,³
Debtors.

Affects:

- ☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA Capital First Trust Deed Fund, LLC
☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under
Case No. BK-S-06-10725 LBR

**ORDER SUSTAINING FIRST OMNIBUS
OBJECTION OF USACM TRUST TO
PROOFS OF CLAIM BASED UPON
INVESTMENT IN THE BEAU RIVAGE
HOMES LOAN**

Hearing Date: December 18, 2009
Hearing Time: 1:30 p.m.

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 21, 2007.

1 The Court having considered the “ First Omnibus Objection of USACM Trust to
2 Proofs of Claim Based Upon Investment in The Beau Rivage Homes Loan”, [Docket No.
3 7800] (the “Objection”) at the December 18, 2009 Omnibus Hearing; proper notice of the
4 Objection having been given; no response to the Objection having been filed; and good
5 cause appearing:

6 **IT IS HEREBY ORDERED:**

- 7 1. The Objection is sustained;
- 8 2. The claims listed on **Exhibit A** attached are allowed as general
9 unsecured claims for the amount shown on **Exhibit A** as Unremitted
10 Principal; and
- 11 3. The remainder of the claims listed on **Exhibit A** are disallowed in
12 their entirety because they are based upon a Direct Lender investment
13 in The Beau Rivage Homes Loan.

14 PREPARED AND RESPECTFULLY SUBMITTED BY:

15
16 **LEWIS AND ROCA LLP**

17 By /s/ John Hinderaker (018024)
18 Rob Charles
19 John Hinderaker (*pro hac vice*)
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25 *Attorneys for USACM Liquidating Trust*
26

In accordance with Local Rule 9021, the undersigned certifies:

- ☐ The Court waived the requirements of LR 9021.
- ☒ This is a Chapter 11 case. I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and any trustee appointed in this case, and each has approved or disapproved the order, or failed to respond, as indicated below (list each party and whether the party has approved, disapproved, or failed to respond to the document):

| | |
|---|---|
| U.S. Trustee: August Landis | |
| <input type="checkbox"/> approved the form of this order | <input type="checkbox"/> disapproved the form of this order |
| <input checked="" type="checkbox"/> waived the right to review the order and/or | <input type="checkbox"/> failed to respond to the document |
| Other Party (no other parties appeared): | |
| <input type="checkbox"/> approved the form of this order | <input type="checkbox"/> disapproved the form of this order |
| <input type="checkbox"/> waived the right to review the order and/or | <input type="checkbox"/> failed to respond to the document |

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Submitted by:

LEWIS AND ROCA LLP

By: /s/John Hinderaker (#018024)
 Rob Charles
 John Hinderaker (*pro hac vice*)
 Marvin Ruth
Attorneys for USACM Liquidating Trust

USACM TRUST
PAID LOAN OBJECTION

EXHIBIT A
SINGLE LOAN CLAIMS
BEAU RIVAGE HOMES/\$8,000,000

| Claim | Name | Address | Total Claim Amount | Allowed Diverted Principal Claim Amount | Remainder Amount Disallowed Because it Relates to an Investment In the Beau Rivage Homes/\$8,000,000 Loan |
|-------------|---|--|--------------------|---|---|
| 10725-00934 | Bennett, Dusk & Alan | Alan Bennett 14225 S. Whisperwood Dr., Reno, NV 89521 Dusk Bennett: 7327 W. 85 th Street Westchester, CA 90045 | 20,000.00 | 759.45 | 19,240.55 |
| 10725-01418 | Davis, Patrick & Susan | 737 Bannerman Lane Fort Mill, SC 29715 | 291.90 | - | 291.90 |
| 10725-02376 | Donna M Cangelosi Family Trust | C/O Donna M Cangelosi Trustee 5860 Lausanne Dr Reno, NV 89511-5034 | 145.99 | - | 145.99 |
| 10725-01598 | Mayo, Monroe | 8635 W Sahara Ave #532 Las Vegas, NV 89117 | 1,136.81 | - | 1,136.81 |
| 10725-02479 | Rausch, Lawrence | 10708 Brinkwood Ave Las Vegas, NV 89134 | 50,083.00 | 2,273.62 | 47,809.38 |
| 10725-00568 | Reber, John | Po Box 570032 Las Vegas, NV 89157 | 50,000.00 | - | 50,000.00 |
| 10725-00208 | Sparks, Lucrecia | 868 Vegas Valley Dr Las Vegas, NV 89109 | 4,053.28 | - | 4,053.28 |
| 10725-00824 | Tobias Von Euw Revocable Trust Dtd 11/23/04 | C/O Tobias Von Euw Ttee Sun City Aliante 7431 Lintwhite St Las Vegas, NV 89134 | 72.99 | - | 72.99 |